

REFERENCE TITLE: nuclear security guards; weapons; ranges

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

# HB 2566

Introduced by  
Representative Driggs

AN ACT

AMENDING SECTIONS 13-3102, 17-602 AND 17-604, ARIZONA REVISED STATUTES;  
RELATING TO WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3102, Arizona Revised Statutes, is amended to  
3 read:

4 13-3102. Misconduct involving weapons; defenses;  
5 classification; definitions

6 A. A person commits misconduct involving weapons by knowingly:

7 1. Carrying a deadly weapon without a permit pursuant to section  
8 13-3112 except a pocket knife concealed on his person; or

9 2. Carrying a deadly weapon without a permit pursuant to section  
10 13-3112 concealed within immediate control of any person in or on a means of  
11 transportation; or

12 3. Manufacturing, possessing, transporting, selling or transferring a  
13 prohibited weapon, except that if the violation involves dry ice, a person  
14 commits misconduct involving weapons by knowingly possessing the dry ice with  
15 the intent to cause injury to or death of another person or to cause damage  
16 to the property of another person; or

17 4. Possessing a deadly weapon or prohibited weapon if such person is a  
18 prohibited possessor; or

19 5. Selling or transferring a deadly weapon to a prohibited possessor;  
20 or

21 6. Defacing a deadly weapon; or

22 7. Possessing a defaced deadly weapon knowing the deadly weapon was  
23 defaced; or

24 8. Using or possessing a deadly weapon during the commission of any  
25 felony offense included in chapter 34 of this title; or

26 9. Discharging a firearm at an occupied structure in order to assist,  
27 promote or further the interests of a criminal street gang, a criminal  
28 syndicate or a racketeering enterprise; or

29 10. Unless specifically authorized by law, entering any public  
30 establishment or attending any public event and carrying a deadly weapon on  
31 his person after a reasonable request by the operator of the establishment or  
32 the sponsor of the event or the sponsor's agent to remove his weapon and  
33 place it in the custody of the operator of the establishment or the sponsor  
34 of the event for temporary and secure storage of the weapon pursuant to  
35 section 13-3102.01; or

36 11. Unless specifically authorized by law, entering an election polling  
37 place on the day of any election carrying a deadly weapon; or

38 12. Possessing a deadly weapon on school grounds; or

39 13. Unless specifically authorized by law, entering a nuclear or  
40 hydroelectric generating station carrying a deadly weapon on his person or  
41 within the immediate control of any person; or

42 14. Supplying, selling or giving possession or control of a firearm to  
43 another person if the person knows or has reason to know that the other  
44 person would use the firearm in the commission of any felony; or

45 15. Using, possessing or exercising control over a deadly weapon in  
46 furtherance of any act of terrorism as defined in section 13-2301 or

possessing or exercising control over a deadly weapon knowing or having reason to know that it will be used to facilitate any act of terrorism as defined in section 13-2301.

B. Subsection A, paragraph 1 of this section shall not apply to a person in his dwelling, on his business premises or on real property owned or leased by that person.

C. Subsection A, paragraphs 1, 2, 3, 7, 10, 11, 12 and 13 of this section shall not apply to:

1. A peace officer or any person summoned by any peace officer to assist and while actually assisting in the performance of official duties; or

2. A member of the military forces of the United States or of any state of the United States in the performance of official duties; or

3. A warden, deputy warden or correctional officer of the state department of corrections; or

4. A person specifically licensed, authorized or permitted pursuant to a statute of this state or of the United States.

5. AN ARMED NUCLEAR SECURITY GUARD WHO WORKS AT A COMMERCIAL NUCLEAR GENERATING STATION IN THE PERFORMANCE OF OFFICIAL DUTIES OR DURING ANY SECURITY TRAINING EXERCISES SPONSORED BY THE COMMERCIAL NUCLEAR GENERATING STATION OR LOCAL, STATE OR FEDERAL AUTHORITIES.

D. Subsection A, paragraphs 3 and 7 of this section shall not apply to:

1. The possessing, transporting, selling or transferring of weapons by a museum as a part of its collection or an educational institution for educational purposes or by an authorized employee of such museum or institution, if:

(a) Such museum or institution is operated by the United States or this state or a political subdivision of this state, or by an organization described in 26 United States Code section 170(c) as a recipient of a charitable contribution; and

(b) Reasonable precautions are taken with respect to theft or misuse of such material.

2. The regular and lawful transporting as merchandise; or

3. Acquisition by a person by operation of law such as by gift, devise or descent or in a fiduciary capacity as a recipient of the property or former property of an insolvent, incapacitated or deceased person.

E. Subsection A, paragraph 3 of this section shall not apply to the merchandise of an authorized manufacturer of or dealer in prohibited weapons, when such material is intended to be manufactured, possessed, transported, sold or transferred solely for or to a dealer, a regularly constituted or appointed state, county or municipal police department or police officer, a detention facility, the military service of this or another state or the United States, a museum or educational institution or a person specifically licensed or permitted pursuant to federal or state law.

F. Subsection A, paragraph 1 of this section shall not apply to a weapon or weapons carried in a belt holster that is wholly or partially

1 visible, ~~or~~ carried in a scabbard or case designed for carrying weapons that  
2 is wholly or partially visible or carried in luggage. Subsection A,  
3 paragraph 2 of this section shall not apply to a weapon or weapons carried in  
4 a case, holster, scabbard, pack or luggage that is carried within a means of  
5 transportation or within a storage compartment, map pocket, trunk or glove  
6 compartment of a means of transportation.

7 G. Subsection A, paragraph 10 of this section shall not apply to  
8 shooting ranges or shooting events, hunting areas or similar locations or  
9 activities.

10 H. Subsection A, paragraph 3 of this section shall not apply to a  
11 weapon described in section 13-3101, subsection A, paragraph 8, subdivision  
12 (a), item (v), if such weapon is possessed for the purposes of preparing for,  
13 conducting or participating in lawful exhibitions, demonstrations, contests  
14 or athletic events involving the use of such weapon. Subsection A, paragraph  
15 12 of this section shall not apply to a weapon if such weapon is possessed  
16 for the purposes of preparing for, conducting or participating in hunter or  
17 firearm safety courses.

18 I. Subsection A, paragraph 12 of this section shall not apply to the  
19 possession of a:

20 1. Firearm that is not loaded and that is carried within a means of  
21 transportation under the control of an adult provided that if the adult  
22 leaves the means of transportation the firearm shall not be visible from the  
23 outside of the means of transportation and the means of transportation shall  
24 be locked.

25 2. Firearm for use on the school grounds in a program approved by a  
26 school.

27 J. The operator of the establishment or the sponsor of the event or  
28 the employee of the operator or sponsor or the agent of the sponsor,  
29 including a public entity or public employee, is not liable for acts or  
30 omissions pursuant to subsection A, paragraph 10 of this section unless the  
31 operator, sponsor, employee or agent intended to cause injury or was grossly  
32 negligent.

33 K. Misconduct involving weapons under subsection A, paragraph 9, 14 or  
34 15 of this section is a class 3 felony. Misconduct involving weapons under  
35 subsection A, paragraph 3, 4, 8 or 13 of this section is a class 4 felony.  
36 Misconduct involving weapons under subsection A, paragraph 12 of this section  
37 is a class 1 misdemeanor unless the violation occurs in connection with  
38 conduct that violates section 13-2308, subsection A, paragraph 5, section  
39 13-2312, subsection C, section 13-3409 or section 13-3411, in which case the  
40 offense is a class 6 felony. Misconduct involving weapons under subsection  
41 A, paragraph 5, 6 or 7 of this section is a class 6 felony. Misconduct  
42 involving weapons under subsection A, paragraph 1, 2, 10 or 11 of this  
43 section is a class 1 misdemeanor.

1 L. For the purposes of this section:

2 1. "Public establishment" means a structure, vehicle or craft that is  
3 owned, leased or operated by this state or a political subdivision of this  
4 state.

5 2. "Public event" means a specifically named or sponsored event of  
6 limited duration that is either conducted by a public entity or conducted by  
7 a private entity with a permit or license granted by a public entity. Public  
8 event does not include an unsponsored gathering of people in a public place.

9 3. "School" means a public or nonpublic kindergarten program, common  
10 school or high school.

11 4. "School grounds" means in, or on the grounds of, a school.

12 Sec. 2. Section 17-602, Arizona Revised Statutes, is amended to read:

13 17-602. State outdoor shooting range noise standards;  
14 preemption; measurement; definitions

15 A. The legislature finds that outdoor shooting range noise standards  
16 are a matter of statewide concern. City, town, county and any other state  
17 noise standards are preempted as applied to outdoor shooting ranges.

18 B. Each outdoor shooting range in this state shall measure the noise  
19 emitted from the range pursuant to subsection E at least once. In addition,  
20 the range shall measure the noise it emits if the range expands the area  
21 designed and operated for the use of firearms or explosives by more than  
22 twenty per cent in size than at the time of its initial noise measurement or  
23 if the range introduces the use of a type of firearm or explosive device that  
24 will increase noise production. The range shall pay for the measurement and  
25 shall keep the results of the measurement at the range at all times. Any  
26 person may review the noise measurement during the range's business hours.  
27 Ranges that are located at least one mile from areas that are zoned for  
28 residences, schools, hotels, motels, hospitals or churches are exempt from  
29 this subsection.

30 C. Any person, at the person's expense, may measure the noise emitted  
31 from an outdoor shooting range pursuant to subsection E.

32 D. The noise emitted from an outdoor shooting range shall not exceed  
33 an Leq(h) of sixty-four dBA.

34 E. In measuring the noise emitted from an outdoor shooting range:

35 1. If a range performs the measurement of noise pursuant to subsection  
36 B, sound pressure measurements shall be taken twenty feet from the nearest  
37 occupied residence, school, hotel, motel, hospital or church, or from the  
38 nearest proposed location of a residence, school, hotel, motel, hospital or  
39 church if the property is zoned for such a structure but is currently  
40 unimproved. If a person performs the measurement of noise pursuant to  
41 subsection C, sound pressure measurements shall be taken twenty feet from the  
42 person's residence, school, hotel, motel, hospital or church, or twenty feet  
43 from the proposed location of the person's residence, school, hotel, motel,  
44 hospital or church if the property is zoned for such a structure but is  
45 currently unimproved.

2. Sound pressure measurements shall be made in a location directly between the range and the nearest existing or proposed residence, school, hotel, motel, hospital or church. If there are natural or artificial obstructions that prevent an accurate noise measurement, the measurement may be taken within an additional twenty feet radius from the initial measurement location.

3. Sound pressure measurements shall be made on the A-weighted fast response mode scale. Measurements shall be taken during the noisiest hour of peak use during the operation of the range. Measurements shall be taken according to American national standards institute's standard methods ANSI S1.2-1962 (R1976) American national standard method for physical measurement of sound and ANSI S1.2-1971 (R1976) American national standard method for measuring sound pressure levels. Measurements shall be taken using a type 1 sound meter meeting the requirements of ANSI S1.4L-1971. Any part of the measurements conducted on a range shall comply with the range safety rules.

F. Outdoor shooting ranges in operation on July 1, 2002 shall comply with the provisions of this section before July 1, 2003. Ranges not in operation on July 1, 2002 shall comply with the provisions of this section when they begin operation.

G. THIS SECTION DOES NOT APPLY TO AN OUTDOOR SHOOTING RANGE THAT IS BUILT FOR LAW ENFORCEMENT, MILITARY OR ARMED NUCLEAR SECURITY GUARD TRAINING AND THAT IS NOT OPEN TO THE GENERAL PUBLIC.

~~G.~~ H. For the purposes of this section:

1. "A-weighted" means a frequency weighting network used to account for changes in sensitivity as a function of frequency.

2. "DBA" means A-weighted decibels, taking into account human response to sound energy in different frequency bands.

3. "Decibel" means the unit of measure for sound pressure denoting the ratio between two quantities that are proportional to power. The number of decibels is ten times the base ten logarithm of this ratio.

4. "Leq(h)" means the equivalent energy level that is the steady state level that contains the same amount of sound energy as a time varying sound level for a sixty minute time period.

Sec. 3. Section 17-604, Arizona Revised Statutes, is amended to read:

17-604. Nighttime outdoor shooting range operations

A. Outdoor shooting ranges that are located in areas that are zoned for residential use or any other use that includes a school, hotel, motel, hospital or church shall not operate from 10:00 p.m. through 7:00 a.m.

B. This section does not apply to any outdoor shooting range while it is providing law enforcement, ~~or~~ military OR ARMED NUCLEAR SECURITY GUARD training. These ranges must provide adequate public notice including posting in four public locations within one mile of the exterior boundaries of the range each calendar quarter of the schedule of when the range will operate from 10:00 p.m. through 7:00 a.m. and the purpose for those nighttime operations. Nighttime operations under this subsection must comply with the nighttime noise standards prescribed by section 17-602.